

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

02 OCT -4 PM 3: 20

U.S. DISTRICT COURT  
N.D. OF ALABAMA

JAMES McCONICO, JR.,

Plaintiff,

vs.

THE CITY OF BIRMINGHAM, OFFICER  
BENISON, and OFFICER TYUS,

Defendants.

CV 01-H-1486-S

  
**ENTERED**


OCT - 4 2002

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on July 2, 2002, recommending that the defendants' motion for summary judgment be granted and this cause dismissed with prejudice. On August 8, 2002, plaintiff filed objections.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, and the objections filed by the plaintiff, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and his recommendation is ACCEPTED. The Court EXPRESSLY FINDS that there are no genuine issues of material fact and that the defendants are entitled to judgment as a matter of law. Accordingly, defendants' motion for summary judgment is due to be GRANTED and this action is due to be DISMISSED WITH PREJUDICE. A Final Judgment will be entered.

DONE this the 4<sup>th</sup> day of October, 2002.

  
JAMES H. HANCOCK  
SENIOR UNITED STATES DISTRICT JUDGE